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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या की जाती है जिससे इक यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 7th March, 1975:—

BILL No. 13 OF 1975

A Bill to provide for the levy and collection, by way of cess, of a duty of excise on virginia tobacco and a duty of customs on tobacco, for the development of tobacco industry and for matters connected therewith.

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tobacco Cess Act, 1975.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "Board" means the Tobacco Board established under section 4 of the Tobacco Board Act, 1975;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "registered auction platform" means an auction platform registered with the Board in accordance with the rules made under the Tobacco Board Act, 1975.

Short title,
extent
and
commencement.

Definitions.

(2) All words and expressions used in this Act and not defined, but defined in the Tobacco Board Act, 1975, shall have the meanings respectively assigned to them in that Act.

Duties of excise on virginia tobacco,

3. (1) There shall be levied and collected, by way of a cess for the purposes of the Tobacco Board Act, 1975, a duty of excise at the rate of one paisa per kilogram on virginia tobacco which is produced in India and sold at a registered auction platform.

(2) The duty of excise levied under sub-section (1) shall be in addition to any cess or duty leviable on virginia tobacco under any other law for the time being in force.

(3) The duty of excise payable under sub-section (1) in respect of any virginia tobacco sold at a registered auction platform shall be payable by the seller thereof to the person or authority prescribed in respect of such platform.

(4) The person or authority prescribed in respect of a registered auction platform shall collect the duty of excise payable on virginia tobacco sold at such platform and pay the amount so collected to the Central Government in such manner and within such time as may be prescribed.

(5) If any duty of excise payable under this section, or if any amount collected under this section by way of such duty, has not been paid to the Central Government within the period prescribed under sub-section (4), the Central Government may recover such duty or amount in the same manner as an arrear of land revenue.

Duties of customs on tobacco.

4. (1) There shall be levied and collected, by way of a cess for the purposes of the Tobacco Board Act, 1975, a duty of customs at such rate not exceeding one per cent. *ad valorem* as the Central Government may specify, by notification in the Official Gazette, on all tobacco, which is exported.

Explanation.—“Exported” means taken out of India by land, sea or air.

(2) The duties of customs levied under sub-section (1) shall be in addition to any cess or duty leviable on tobacco under any other law for the time being in force.

(3) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duty, shall, as far as may be, apply in relation to the levy and collection of the duty of customs leviable under sub-section (1) as they apply in relation to the levy and collection of duties of customs under that Act or those rules and regulations.

52 of 1962.

Crediting proceeds of duties to Consolidated Fund of India.

5. The proceeds of the duties of excise and customs levied under sections 3 and 4 respectively shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Board, from time to time, from out of such proceeds, after deducting the expenses on collection, such sums of money as it may think fit for being utilised for the purposes of the Tobacco Board Act, 1975.

6. Whoever wilfully or intentionally evades or attempts to evade the payment of any duty of excise payable by him under section 3, or the payment of any amount collected by way of duty under that section shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for evasion of duty of excise payable under section 3.

7. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

8. No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Jurisdiction of court.

9. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

Previous sanction of Central Government.

10. No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of the Central Government or against the Board or any officer or employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of action taken in good faith.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the assessment and collection of the duties of excise levied under section 3 and the functions and powers which may be exercised and the duties which may be discharged in connection therewith by the Board or any officers or other employees of the Board;

(b) the persons or authorities who may collect duties of excise under sub-sections (3) and (4) of section 3, the time within which and the manner in which the proceeds of such duties of excise shall be paid to the Central Government;

(c) the returns which the persons or authorities referred to in clause (b) shall furnish to the Central Government and the form and the manner in which and the intervals at which such returns shall be furnished;

(d) any other matter which has to be, or may be, prescribed by, or provided for, by rules, under this Act.

(3) In making any rule under this section, the Central Government may direct that a contravention thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

This Bill is complementary to the Tobacco Board Bill, 1974. The Tobacco Board Bill, 1974 seeks to provide for the development under the control of the Union of the tobacco industry. For this purpose that Bill seeks to provide for the establishment of a Board to be called the Tobacco Board and empower the Board to permit by such measures as it thinks fit the development of the tobacco industry. In order to ensure that the said Board has the necessary resources to discharge its functions, this Bill seeks to provide for the levy by way of a cess of a duty of excise on virginia tobacco produced in India and also for the levy by way of a cess of a duty of customs on all tobacco which is exported. The intention is to make over, after due appropriation by Parliament by law, the proceeds of the cesses to the Tobacco Board to enable it to discharge its functions effectively.

2. The Bill seeks to achieve the above objects.

NEW DELHI;

The 17th February, 1975.

VISHWANATH PRATAP SINGH.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 1/50/74-EP(Agri-I), dated the 19th February, 1975 from Shri Vishwanath Pratap Singh, Deputy Minister in the Ministry of Commerce to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Tobacco Cess Bill, 1975, recommends under clause (1) of article 117 of the Constitution of India, the introduction of the Bill in the Lok Sabha and also recommends under clause (3) of article 117 of the Constitution of India, the consideration of the Bill by the Lok Sabha.

FINANCIAL MEMORANDUM

With a view to ensuring that the Tobacco Board provided for in the Tobacco Board Bill, 1974 has necessary resources to discharge its functions, this Bill seeks to provide for levying by way of a cess—

(a) a duty of excise at the rate of one paisa per kilogram on virginia tobacco which is produced in India and sold at any registered auction platform (*vide* clause 3 of the Bill); and

(b) a duty of customs at such rate not exceeding one per cent. *ad valorem* as the Central Government may, by notification in the Official Gazette, specify, on all tobacco which is exported. (*Vide* clause 4 of the Bill).

The proceeds of the aforementioned duties will be paid into the Consolidated Fund of India. Under clause 5 of the Bill the Central Government may, if Parliament, by appropriation made by law in this behalf so provides, pay to the said Tobacco Board from time to time out of such proceeds, after deducting the expenses on collection, such sums of money as that Government may think fit for being utilized for the purposes of the legislation relating to the Board.

2. The proposed duty of excise on virginia tobacco will be collected by such persons or authorities as may be prescribed by rules.

3. The collection of the aforementioned duties of excise and customs will involve some expenditure from the Consolidated Fund of India. It is not possible at this stage to estimate the amount of such expenditure as that will depend upon various contingencies such as the areas in which the provisions of the Act may be brought into force, the quantities of virginia tobacco which may be sold at registered auction platforms, the quantities of tobacco which may be exported, etc. However, it is tentatively estimated that the cost of collection of the duties of excise would be about five per cent. of the proceeds of those duties and that of the duties of customs would be about two per cent. of the proceeds from those duties. On the assumption that the virginia tobacco produced in India and sold at registered auction platforms during a full year would amount to about 100 million Kilograms, the proceeds of duties of excise thereon would work out to Rs. 10,00,000 per year and the expenses of collection of the same would be about Rs. 50,000 per annum. On the assumption that the value of tobacco exported from India during a full year would be Rs. 65 crores, the proceeds of duties of customs thereon would, if the same are levied at the maximum rate of one per cent. *ad valorem*, amount to Rs. 65,00,000. The expenses of collection of the duties of customs would be about Rs. 1.3 lakhs. As only the balance of the proceeds after deducting the costs of collection may be utilized for making payments to the Tobacco Board, there will in effect be no net out-go from the Consolidated Fund of India.

4. The expenditure on the collection of the duties will be of a recurring nature and the Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill seeks to empower the Central Government to make rules to carry out the purposes of the legislation. The matters in respect of which rules may be so made relate, *inter alia*, to the assessment and collection of duties of excise provided for in clause 3 of the Bill, the functions and powers which may be exercised and the duties which may be discharged in connection with such assessment and collection by the Tobacco Board or by officers or other employees of the Board, the persons or authorities who shall collect the duties of excise, the time within which and the manner in which such duties of excise shall be paid to the Central Government, the returns which the persons or authorities collecting duties of excise shall furnish to the Central Government and the form and the manner in which and the intervals at which such returns shall be furnished. Sub-clause (3) of clause 11 seeks to empower the Central Government to provide for punishment for contravention of those rules. The sub-clause specifies the maximum limits of punishments which may be so provided. As the matters in respect of which rules may be made pertain to matters of procedure or detail and as the maximum limits of punishments which may be provided for by rules are laid down in the clause itself, the delegation of legislative power is of a normal character.

S. L. SHAKDHER,
Secretary-General.

